

REMARKS/ARGUMENTS

Responsive to the Office Action, Applicants acknowledge with appreciation the allowance of Claims 1 through 16 and 20 through 36 and the indication of allowability of Claim 45. Claim 45 has been rewritten in independent form as Claim 46, including the recitation of previously presented Claims 37 and 45. Claim 46 is believed to be in condition for allowance.

Claims 18, 41 and 45 have been canceled.

Claim 17 remains in the application, as amended herein, and is believed to distinguish patentably over the prior art.

Claim 19 remains in the application dependent on Claim 17.

Claim 37 remains in the application, as amended herein, to distinguish over the prior art. Claims 38 through 40 and 42 through 44 remain in the application depending directly or indirectly from Claim 37. Claim 42 has been amended to properly depend from Claim 37. Reconsideration for allowance of Claims 17, 18, 37 through 40 and 42 through 44 is requested for the cogent reasons set forth hereinbelow.

In the Office Action, the Examiner rejected Claims 17 through 19 and 37 through 44 under 35 U.S.C. 102(b) as being anticipated by US Patent 2,698,973 to Zeckendorf et al. The Zeckendorf et al. reference discloses a multistory, multiple dwelling unit building complex in both a circular and a generally rectangular embodiment, respectively, wherein multiple dwelling units may be disposed at a first level and have access to a corridor at the first level through pedestrian doorways. Additional dwelling units, or at least rooms, are provided at levels at least partially above and below the first level and may be provided with stairways between the first mentioned dwelling units and the respective dwelling units or rooms to essentially expand the size of the dwelling units which are disposed at the same level as the aforementioned corridor. In other words, at a particular dwelling unit level which includes a corridor, one or more dwelling units may include additional rooms at levels at least partially above the level of the

dwelling unit in question or partially below the dwelling unit in question so that the dwelling units in question may be expanded to include additional rooms. However, these additional rooms or "dwelling units" do not have access to a corridor except through the dwelling unit to which they are connected by stairways, respectively. Accordingly, these additional, so-called "dwelling units" are actually just rooms which may be provided to expand the size of respective primary dwelling units. There are no separate pathways from these additional dwelling units or rooms directly to a corridor.

Claims 17 and 37 have been amended to patentably distinguish over the Zeckendorf et al. reference. Claim 17 has been amended to recite a multistory, multiple dwelling unit building complex wherein a first level includes multiple dwelling units thereon, a second level includes plural dwelling units thereon and at least selected ones of the dwelling units on the second level are separate from any other dwelling units of the building complex. Claim 17 further recites a third level of the module including multiple dwelling units thereon, a corridor formed on the second level and respective separate pathways provided between the corridor and each of the levels to provide for pedestrian access to each of the dwelling units without passing through another dwelling unit. In at least these respects, Claim 17 is believed to distinguish over the Zeckendorf et al. reference which does not disclose or suggest an arrangement of a three story module with a corridor on a second level and access between the corridor and each dwelling unit on first, second and third levels without passing through another dwelling unit. In this way, in accordance with the present invention, dwelling units on at least two of the levels have access to a corridor on another level without losing floor space to corridors on first and third levels, for example. Consideration for allowance of Claim 17, as amended, is respectfully requested.

Claim 19 remains in the application dependent on Claim 17 and is believed to be patentable at least for the reasons set forth above in support of the patentability of Claim 17.

Claim 37 has been amended generally along the lines of the amendments to Claim 17 but Claim 37 has been further amended to recite the provision of a third level of the multistory module with a second level being disposed between the first level and the third level, and a corridor formed only on the second level. Claim 37 further recites that separate pedestrian pathways exist between the corridor and the respective first, second and third levels to provide access for each dwelling unit on each level without passing through another dwelling unit. In at least these respects Claim 37 is also believed to distinguish over Zeckendorf et al.

Claims 38 through 40 remain in the application depending directly or indirectly from Claim 37. Claims 42 through 44 also remain in the application depending directly or indirectly from Claim 37. These dependent claims are believed to be patentable at least for the reasons set forth in support of the patentability of Claim 37, as amended herein.

Applicants have made a diligent effort to advance the prosecution of this application by canceling claims, by amending claims and by pointing out with particularity herein how the claims now presented distinguish over the prior art. Accordingly, an early Notice of Allowance of Claims 1 through 17, 19 through 40, 42 through 44 and 46 is respectfully solicited.

Respectfully submitted,

Date: 12/01/04

Michael E. Martin
Michael E. Martin
Registration No. 24,821
Agent for Applicant

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Phone (214) 999-4052
Fax (214) 999-3052